

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

**DOMINIK ZOLKOS, DZIANIS KLIAVETS,
JAMES MCCOY, JOE WALLACE, LIONEL
JONES, MICHAEL KARP, KAROLYN
UNDERWOOD, RONITA FOY, JERRY
ANDERSON, MADI VANESSA SUTTON,
NORMAN MORSE, JOHN ROBERTSON,
ANTHONY GRAY, JOSEPH FENICO, ALIX
PETITHOMME, and WENDY DOBBINS, on
behalf of themselves and all others similarly
situated,**

No. 12 Civ. 8230 (GF)

Hon. Gary Feinerman

Plaintiffs,

-against-

**SCRIPTFLEET, INC., f/k/a NETWORK
EXPRESS, PARTSFLEET, INC., PARTSFLEET II,
INC., FLEETGISTICS HOLDINGS, INC., and
MEDIFLEET, INC.,**

Defendants.

**PLAINTIFFS' UNCONTESTED
MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT,
CONDITIONAL CERTIFICATION OF THE SETTLEMENT CLASS,
APPOINTMENT OF PLAINTIFFS' COUNSEL AS CLASS COUNSEL,
APPROVAL OF PLAINTIFFS' PROPOSED NOTICES OF SETTLEMENT, AND
LEAVE TO FILE A THIRD AMENDED COMPLAINT**

For the reasons set forth in the Memorandum of Law in Support of Plaintiffs' Motion for Preliminary Approval of Class Action Settlement, Conditional Certification of the Settlement Class, Appointment of Plaintiffs' Counsel as Class Counsel, Approval of Plaintiffs' Proposed Notices of Settlement, and Leave to File a Third Amended Complaint ("Motion for Preliminary Approval"), the Declaration of Justin M. Swartz in Support of Plaintiffs' Motion for Preliminary Approval ("Swartz Declaration"), the Declaration of Gregg I. Shavitz in Support of Plaintiffs'

Motion for Preliminary Approval, the Declaration of Michael D. Palmer in Support of Plaintiffs' Motion for Preliminary Approval, and the Declaration of Jennifer L. Liu in Support of Plaintiffs' Motion for Preliminary Approval, Plaintiffs respectfully request that the Court enter an Order:

- (1) granting preliminary approval of the Joint Stipulation of Settlement and Release ("Settlement Agreement"), attached as Exhibit A to the Swartz Declaration;
- (2) conditionally certifying the following settlement class under Fed. R. Civ. P. 23(a) and (b)(3) for purposes of effectuating the settlement:

All current and former Couriers who performed services for Defendants for at least fifteen (15) weeks (including at least one week in which Defendants' records indicate that the Courier worked for at least approximately thirty (30) hours, and not including weeks covered by claims previously released in other lawsuits) in:

- a. the States of New York and New Jersey during the period from October 12, 2006 through August 1, 2014;
- b. the State of Kentucky during the period from October 12, 2007 through August 1, 2014;
- c. the States of Illinois, Pennsylvania, Maryland and Massachusetts (excluding services performed for Medifleet in Massachusetts) during the period from October 12, 2009 through August 1, 2014; and
- d. the States of Connecticut, North Carolina and Ohio during the period from October 12, 2010 through August 1, 2014.

- (3) appointing Outten & Golden LLP, the Shavitz Law Group, P.A., and Sanford Heisler, LLP as Class Counsel;
- (4) approving the proposed Notice of Proposed Settlement of Class Action Lawsuit and Fairness Hearing, Claim Form and Exclusion Request Form ("Rule 23 Notice") attached as Exhibit B to the Swartz Declaration; the proposed Notice of Proposed Settlement of Collective Action Lawsuit and Fairness Hearing and Claim Form, ("FLSA Notice") attached as Exhibit C to

the Swartz Declaration; and the Proposed Reminder Notice, attached as Exhibit E to the Swartz Declaration, and directing their distribution;

- (5) approving the Parties' proposed schedule for final settlement approval;
- (6) granting Plaintiffs leave to file the Third Amended Complaint, attached as Exhibit D to the Swartz Declaration; and
- (7) granting such other, further, or different relief as the Court deems just and proper.

* * *

Plaintiffs have contemporaneously submitted a Proposed Order, attached hereto as **Exhibit A**, for the Court's convenience.

Respectfully submitted,

Dated: December 2, 2014
New York, New York

/s/ Justin M. Swartz
OUTTEN & GOLDEN LLP
Justin M. Swartz
Naomi B. Sunshine (*pro hac vice*)
3 Park Avenue, 29th Floor
New York, New York 10016
Telephone: (212) 245-1000
Facsimile: (212) 977-4005

and

Paul W. Mollica
61 North Clark Street
Suite 4700
Chicago, Illinois 60601
Telephone: (312) 809-7010
Facsimile: (646) 509-2075

SHAVITZ LAW GROUP, P.A.
Gregg I. Shavitz (*pro hac vice* motion forthcoming)
Keith M. Stern (*pro hac vice* motion forthcoming)
1515 S. Federal Highway

Boca Raton, Florida 33432
Telephone: (561) 447-8888

SANFORD HEISLER, LLP

Michael Palmer (*pro hac vice* motion forthcoming)
1350 Avenue of the Americas, 31st Floor
New York, NY 10019
Telephone: (646) 402-5650
Facsimile: (646) 402-5651

*Attorneys for Plaintiffs and the Putative Class and
Collective*